

Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations

I. INTRODUCTION

The National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) directs the Secretary of Commerce to designate and manage areas of the marine environment with nationally significant aesthetic, ecological, historical, or recreational values as national marine sanctuaries. The National Marine Sanctuary Program (NMSP) has issued regulations to implement this act (15 CFR Part 922). These regulations exist to safeguard resources within sanctuary boundaries and include prohibitions on the conduct of some activities. Program regulations outline the procedure and criteria under which the NMSP will issue permits to allow certain activities beneficial to sanctuaries that would otherwise be prohibited. These guidelines describe the requirements and process by which an applicant may apply for a permit under this authority.

NMSP permits are typically issued by sanctuary superintendents. The type of activities that qualify for a permit vary from sanctuary to sanctuary, but in general include research on sanctuary natural and cultural resources, educational activities, and activities that further sanctuary management objectives. A list of the permit types specific to each sanctuary can be found in Appendix A and in NMSP regulations.

In addition to permits, in certain sanctuaries a superintendent can authorize an activity that is permitted by a valid lease, permit, license, approval or other authorization issued by any federal, state, or local authority of competent jurisdiction. Such authorizations may be only be issued by Florida Keys, Flower Garden Banks, Monterey Bay, Stellwagen Bank, Olympic Coast, and Thunder Bay national marine sanctuaries. Since the general process and requirements governing the handling of authorizations and permits are very similar, in these guidelines the term “permit” applies to both permits and authorizations. When there is a difference in the requirements or process between permits and authorizations, this distinction is noted.

Anyone conducting prohibited activities without a valid national marine sanctuary permit may be subject to the penalties as provided under Section 307 of the National Marine Sanctuaries Act.

II. GENERAL GUIDANCE

Permit applications should include the required information listed below, in sufficient detail that an educated non-specialist can understand exactly what is proposed. If a relevant proposal for a funding application, work plan, formal agreement, or similar document already exists, then elements of this original proposal can be used to satisfy NMSP application requirements, and can be referenced and attached to the application. The amount and depth of information to be given on an application depends primarily on the complexity of the proposed activity.

A form has been provided to assist an applicant in submitting the required information (Appendix B). Note that more or less information may be required for certain permit types.

III. APPLICATIONS

Applications for sanctuary permits shall include the following information:

A. **Applicant and Project Information**

1. **Project title**
2. **Sanctuary** – Note the sanctuary(s) in which the activity is proposed to occur.
3. **Applicant information** – Provide name, title, address, telephone number, fax number, email address, and institutional affiliation of the primary applicant/principal investigator and any co-applicants. In addition, list the name and affiliation of any additional colleagues authorized to do work under the permit.
4. **Project abstract** – Abstract of approximately 250 words summarizing the project including objectives, methods, and project significance. The abstract shall be suitable for use in the public press.
5. **Project rationale** – Describe the issue to be investigated and its importance and relevance to the sanctuary. Provide relevant background information that clarifies the need for the project and why it is valuable and/or necessary for this activity to be conducted in the sanctuary.
6. **Objectives** – Describe the specific objectives of the proposed project. Where appropriate, the objectives should be stated as specific hypotheses to be tested.
7. **Intended use of results** – Describe how the products/outcomes will be used, including any anticipated commercial use.

B. **Methods** – Describe how the proposed methods and analytical techniques will achieve the activity objectives. This description should include the following, as applicable:

1. **Proposed location of activity** – Clearly describe the study area in terms of sanctuary name(s), geographic location(s), and place names. Unless it is necessary for the activity to take place throughout the sanctuary, provide the geographic coordinates of the proposed location in decimal degrees or degrees, minutes, seconds. Explain whether coordinates notate sampling point(s), boundary points, or a central point and associated radius. Indicate whether the work will take place in any sanctuary marine zones (see section G).
2. **Procedures** – Describe the proposed activity design that addresses the stated objectives and hypotheses. Explain the methods and protocols to be employed in the field. Include descriptions and diagrams of any instrumentation or equipment to be

- used and deployment duration. Describe all phases of activity, including equipment removal. Include activity frequency (e.g., daily, monthly) as appropriate.
3. **Collections** – If applicable, describe the type, size, and quantity of specimens or materials to be collected, sampled, or captured. Include collection methods, handling, frequency, and replicates required for each experiment. If aware that specimens of the proposed types already exist in a repository, explain why additional collecting is necessary. Provide scientific nomenclature where possible. Provide information on all other applicable federal or state permits where required.
 4. **Schedule** – Provide a schedule that includes start of project, approximate dates or seasons of fieldwork, analysis, reporting, and completion dates. Include the requested start and stop dates for the permit.
 5. **Budget** – Briefly outline the expenses associated with this project and identify your expected funding source(s). Provide contract number, performance period, and name of sponsoring agency, as applicable.
- C. **Products** – With limited exemptions, all information resulting from activities conducted under a national marine sanctuary permit must be made available to the public.
1. **Publications and reports** – Describe the expected publications or reports that will be generated as part of this study.
 2. **Collections** – Describe the proposed disposition of collected specimens or materials. If you propose that the NMSP lend the specimens or samples to a non-NMSP institution for long-term storage, identify that institution and give a brief justification for this proposal.
 3. **Data and other materials** – Describe any other products to be generated as part of the project, such as photographs, maps, models, handouts, exhibits, software presentations, raw data, GIS coverages, or videos, and the proposed disposition of these materials. If data are to be collected from the public as part of this study, provide a copy of the data collection instrument (survey, questionnaire, interview protocol, etc.).
- D. **Literature Cited** – Include full bibliographic citations for any reports and publications used in the text of the application.
- E. **Qualifications** – Provide a background summary or curriculum vitae for the primary applicant/principal investigator and any co-applicant. Identify their training and qualifications relevant to the proposed project and their ability to conduct field activities in the environment of the proposed activity area. Describe previous research and other permitted activities in national marine sanctuaries, including any sanctuary permits previously issued.

- F. **Environmental Impacts** – Discuss the environmental consequences of conducting the proposed activity and indicate whether the activity could be conducted outside the sanctuary and still accomplish the project's objectives. Specify the direct and indirect environmental impacts of the activity and explain how the benefits of the research will outweigh the disadvantages or environmental consequences in both the short and long term.
- G. **Supporting Documentation And Special Concerns** – Provide information on the following topics where applicable. Attach copies of any supporting documentation that will facilitate processing your application, such as other required federal and state permits, copies of peer reviews, letters of support and funding commitments, and certifications.
1. **Coordination with other research** – NMSP encourages research coordination and cost-sharing with other investigators to enhance scientific capabilities and avoid unnecessary duplication of effort. Applicants should include a description of these efforts, where applicable. Cite similar or supporting past or present research results.
 2. **Copies of other permits** -- Include, if applicable, copies of other federal, state and/or local permits issued with regards to this permit request.
 3. **Requests for NMSP assistance** – NMSP has limited on-site sanctuary personnel, facilities and equipment that may be used to support permitted activities under special circumstances. Requests for support should accompany the permit application and include details on the support requested, justification, dates and length required, and alternate plans if NMSP support is not available.
 4. **Activities in marine zones** – Some sanctuaries have established marine zones to more fully protect habitats, restore the ecological integrity of these areas, or deconflict certain activities. Examples of these zones include Sanctuary Preservation Areas in Florida Keys NMS and marine reserves in Channel Islands NMS. For any activity or portion of activity proposed to take place in marine zones, describe why it is necessary to conduct this activity in a particular zone and how it will further the understanding and/or management of the zone or sanctuary.

IV. SUBMISSION OF PERMIT REQUESTS

The completed permit application should be sent to the appropriate sanctuary contact listed in Appendix C. Permit applications must be submitted at least thirty (30) calendar days in advance of the requested effective date to allow sufficient time for evaluation and processing. Sensitive or complicated requests, requests for collection of sensitive species, or requests for sanctuary support should be submitted at least ninety (90) calendar days in advance. In order to expedite processing, applicants are encouraged to contact the appropriate sanctuary in advance of

submitting a formal application to discuss any questions or issues they feel may complicate or delay the application process. **Note: applications not received within the time frames specified above may not be processed before the requested effective date.**

V. EVALUATION OF PERMIT REQUESTS

Permit applications are generally processed by the sanctuary in the order received and will first be reviewed for completeness and adherence to these guidelines. Applicants will be contacted for clarification or if applications are incomplete within twenty (20) calendar days of receipt of the application. If a sanctuary requests such additional information or clarification, and no response has been received from the applicant within ninety (90) calendar days, the application will be deemed withdrawn, no further action will be taken on the application by the sanctuary, and any application for this activity will have to be resubmitted by the applicant as a new request.

Complete applications are reviewed by NMSP program officials, on-site sanctuary personnel, and, when deemed necessary, peer-reviewed by outside experts. Based on the reviews of the application, NMSP will approve or deny the permit. If approved, the sanctuary superintendent will issue the permit. If denied, applicants are notified of the reason(s) for denial and informed of the appeal process.

VI. PERMIT AMENDMENTS

Once a permit or authorization has been issued, changes can be made in the form of an amendment. Requests for amendments (e.g., requests to change the activity location or to extend the expiration date) must conform to these guidelines. Persons desiring to continue permitted activities in the sanctuary must reapply for an extension of the current permit at least thirty (30) calendar days before it expires. Reference to the original application may be given in lieu of a new application, provided the scope of work does not change significantly and all cruise logs and project summaries pertinent to the original permit have been submitted to and approved by on-site sanctuary personnel. **Note: requests for amendments not received within the time frame specified above may not be processed before the requested effective date. In addition, expired permits cannot be amended.**

VII. PERMIT REPORTS

Most permits will require the permittee to submit certain reports documenting activities conducted under the permit. Depending on the permit type and proposed activity, such reports may include (but are not limited to) interim and final activity reports, cruise and flight logs, catch logs, and sample/collection logs. For most permits, these reports will generally be 1-2 pages in length, although complex activities may call for more extensive documentation. Information required to be included in these reports will vary according to the specific activity being permitted, but will generally include a brief summary of activities undertaken, activity dates and locations, any results or findings, appropriate charts or photos, details regarding samples and

collections made, publications resulting from permitted activities, and any deviations from the proposed or permitted activities. Specific requirements for reports for permits involving archeological research are included in Appendix I.

VIII. SPECIAL SITUATIONS

Although the information required here applies to most permit situations, certain types of activities require more or less application information and may involve a different review and/or approval process. Please see the relevant appendix if the proposed activity involves one of the following situations:

- A. Overflight of aircraft in the Channel Islands, Gulf of the Farallones, Monterey Bay, or Olympic Coast national marine sanctuaries (Appendix D)
- B. Fireworks or pyrotechnics displays in Monterey Bay National Marine Sanctuary (Appendix E)
- C. Construction, including coastal armoring or hardening, in Monterey Bay National Marine Sanctuary (Appendix F)
- D. Baitfish permits in the Florida Keys National Marine Sanctuary (Appendix G)
- E. Special Use Permits (Appendix H)
- F. Activities involving sanctuary historical resources, including submerged cultural resources, maritime heritage resources, and submerged archaeological resources (Appendix I)

IX. REPORTING BURDEN

Submittal of the information requested in these guidelines is required to obtain a permit pursuant to NMSP regulations (15 CFR part 922). This data is to evaluate the potential benefits of the activity, determine whether the proposed methods will achieve the proposed results, evaluate any possible detrimental environmental impacts, and determine if issuance of a permit is appropriate. It is through this evaluation that the NMSP is able to use permitting as one of the management tools to protect sanctuary resources and qualities.

Applicants are requested to indicate any information that is considered proprietary business information. Such information is typically exempt from disclosure to anyone requesting information pursuant to the Freedom of Information Act (FOIA). NOAA will make all possible attempts to protect such proprietary information, consistent with all applicable FOIA exemptions in 5 U.S.C. 552(b). Typically exempt information includes trade secrets, commercial and financial information (5 U.S.C. 552(b)(4)). Personal information affecting an individual's privacy will also be kept confidential consistent with 5 U.S.C. 552(b)(6).

Public reporting burden for this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information is estimated to average one (1) hour per response (e.g., initial application, cruise log, final report) except for the following permit types:

- A. Twenty-four (24) hours per response for special use permits;
- B. Thirteen (13) hours per response for activities involving sanctuary historical resources;
- C. Thirty (30) minutes per response for baitfish permit;
- D. Fifteen (15) minutes per response for amendments to permits;
- E. Thirty (30) minutes per response for certification requests;
- F. Fifteen (15) minutes per response for voluntary registration; and
- G. Ninety (90) minutes per response for appeals of permit decisions.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to National Permit Coordinator, NOAA National Marine Sanctuary Program, 1305 East-West Highway (N/ORM6), 11th Floor, Silver Spring, MD 20910.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

APPENDIX B
GENERIC PERMIT APPLICATION FORM



National Marine Sanctuary Program
PERMIT APPLICATION FORM

The National Marine Sanctuaries Act (16 U.S.C. 1431 *et seq.*) directs the Secretary of Commerce to designate and manage areas of the marine environment with nationally significant aesthetic, ecological, historical, or recreational values as national marine sanctuaries. The National Marine Sanctuary Program has issued regulations to implement this act (15 CFR Part 922). These regulations exist to safeguard resources within sanctuary boundaries and include prohibitions on the conduct some activities. Program regulations also give the NMSP authority to issue permits to allow certain activities beneficial to sanctuaries that would otherwise be prohibited.

Guidelines on applying for permits are given in “Guidelines For Submitting Applications For National Marine Sanctuary Permits And Authorizations,” to which this form is an appendix. Applicants are responsible for reviewing and understanding the guidelines in their entirety to ensure all application requirements are met. This form does not and is not meant to replace the guidelines, but is instead provided to assist potential applicants in gathering and submitting the information required for most permits. Some permits may require more or less information; applicants should consult the guidelines for details. This form is provided for the convenience of applicants only and is not required.

Completed applications should be submitted to the appropriate sanctuary(s) in which the activity is proposed to take place. This contact information is included in the guidelines.

Anyone conducting prohibited activities without a valid national marine sanctuary permit or authorization may be subject to the penalties as provided under Section 307 of the National Marine Sanctuaries Act.

Public Reporting Burden

Submittal of the information requested in these guidelines is required to obtain a permit pursuant to NMSP regulations (15 CFR part 922). This data is to evaluate the potential benefits of the activity, determine whether the proposed methods will achieve the proposed results, evaluate any possible detrimental environmental impacts, and determine if issuance of a permit is appropriate. It is through this evaluation that the NMSP is able to use permitting as one of the management tools to protect sanctuary resources and qualities.

Applicants are requested to indicate any information that is considered proprietary business information. Such information is typically exempt from disclosure to anyone requesting information pursuant to the Freedom of Information Act (FOIA). NOAA will make all possible attempts to protect such proprietary information, consistent with all applicable FOIA exemptions in 5 U.S.C. 552(b). Typically exempt information includes trade secrets, commercial and financial information (5 U.S.C. 552(b)(4)). Personal information affecting an individual’s privacy will also be kept confidential consistent with 5 U.S.C. 552(b)(6).

Public reporting burden for this collection of information is estimated to average one (1) hour per response (e.g., initial application, cruise log, final report), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to National Permit Coordinator, NOAA National Marine Sanctuary Program, 1305 East-West Highway (N/ORM6), 11th Floor, Silver Spring, MD, 20910.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

A. APPLICANT AND PROJECT INFORMATION

Project Title:

Sanctuary(s):

Applicant Information:

Name:
Affiliation:
Department:
Mailing address *(include street or post office box, city, state, and zip code):*

Phone number:
Fax number:
E-mail address:

Secondary (co-applicant) information *(if applicable):*

Name:
Affiliation:
Department:
Mailing address *(include street or post office box, city, state, and zip code):*

Phone number:
Fax number:
E-mail address:

Name(s) of any other individuals authorized to conduct activities under this permit:

Name(s):
Affiliation(s):

Project abstract: *(approximately 250 words)*
Include summary of objectives, methods, and project significance.

Project rationale:
Describe the issue to be investigated, its importance and relevance to the sanctuary, and why it is necessary to be conducted in the sanctuary.

Activity objectives:

When appropriate, include the specific hypothesis to be tested.

Intended use of results:

B. METHODS

Proposed location of activity:

When appropriate, include geographic coordinates of activity in decimal degrees or degrees, minutes, seconds. Explain whether coordinates notate sampling point(s), boundary points, or a central point and associated radius. Indicate whether the work will take place in any sanctuary marine zones (if so, complete section G).

Procedures:

Explain the methods and protocols to be employed in the field. Include descriptions and diagrams of any instrumentation or equipment to be used and deployment duration. Describe all phases of activity, including equipment removal. Include activity frequency (e.g., daily, monthly) as appropriate.

Collections: *(when applicable)*

Describe the type, size, and quantity of specimens or materials to be collected, sampled, or captured. Include collection methods, handling, frequency, and replicates required for each experiment. If aware that specimens of the proposed types already exist in a repository, explain why additional collecting is necessary. Provide scientific nomenclature where possible. Provide information on all other applicable federal or state permits where required.

Project schedule:

Describe overall project schedule along with requested permit dates:

Requested permit start date:

Requested permit stop date:

Project budget:

Briefly outline expenses associated with this activity. Provide contract number, performance period, and name of sponsoring agency, as applicable.

C. PRODUCTS

Describe expected publications or reports, proposed disposition of collected specimens, and any data to be generated as part of this project.

D. LITERATURE CITED IN THIS APPLICATION

E. QUALIFICATIONS OF PERMITTED PERSONNEL

F. ENVIRONMENTAL IMPACTS OF ACTIVITY

G. SUPPORTING DOCUMENTATION AND SPECIAL CONCERNS

Coordination with other research/activities:

Copies of other permits:

List all permits required from other agencies for the proposed project. Indicate date the permit was acquired or application was submitted. Attach/submit other permits or applications.

Requests for NMSP assistance:

Activities in marine zones:

For any activity or portion of activity proposed to take place in marine zones, describe why it is necessary to conduct this activity in a particular zone and how it will further the scientific understanding and/or management of the zone or sanctuary.

APPENDIX H SPECIAL USE PERMITS

Section 310 of the National Marine Sanctuaries Act (16 U.S.C. § 1441; NMSA) allows the Secretary of Commerce (delegated to the National Marine Sanctuary Program (NMSP)) to issue special use permits to authorize the conduct of specific activities in a sanctuary if such authorization is necessary (1) to establish conditions of access to and use of any sanctuary resource or (2) to promote public use and understanding of a sanctuary resource. Special use permits are generally issued for concessionaire-type activities and other commercial activities that require access to the sanctuary to achieve a desired goal.

Public notice

The NMSA requires, among other things, the NMSP to provide “appropriate public notice before identifying any category of activity subject to a special use permit” (see section 310(b) of the NMSA). To comply with this directive from Congress, the NMSP has issued a *Federal Register* notice that describes the types of activities for which it can require the issuance of a special use permit (67 FR 35501). To qualify for a special use permit, an activity must be among those listed in this notice. The notice lists the following activities:

- A. The disposal of cremated human remains by a commercial operator in any national marine sanctuary;
- B. The operation of aircraft below the minimum altitude in restricted zones of national marine sanctuaries for commercial purposes;
- C. The placement and subsequent recovery of objects associated with public events on non-living substrate of the seabed;
- D. The discharge and immediate recovery of objects related to special effects of motion pictures; and
- E. The continued presence of submarine cables beneath or on the seabed.

If a proposed activity does not fall within the description of one of the types of activities for which NMSP has provided public notice, NMSP would need to publish a new *Federal Register* notice and solicit public comments on the use of special use permits for the type of activity proposed prior to issuing a permit.

Terms of special use permits

The NMSA provides four conditions on special use permits. The NMSA requires that special use permits:

- A. Shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;
- B. Shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

- C. Shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and
- D. Shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

Permit fees

The NMSA allows the NMSP to assess and collect fees for the conduct of any activity under a special use permit. If it is assessed, the amount of the fee is calculated by adding all of the following.

- A. The costs incurred, or expected to be incurred, by the Secretary in issuing the permit;
- B. The costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and
- C. An amount that represents the fair market value of the use of the sanctuary resource.

Information requirements

Applicants for special use permits should submit all of the information requested in the standard guidance for NMSP permit applications given in this document. In addition, the following will also be required:

- A. Comprehensive Liability Insurance. Applicants will be required to purchase and maintain comprehensive general liability insurance, or to post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims. Applicants should show proof of such insurance with the rest of the application materials.
- B. Annual financial report. Most permits require some form of reporting. Special use permit recipients are also required to submit financial reports on or before December 31 of each year the permit is valid. These reports should detail the activities conducted under the permit during the reporting year and any revenues derived from those activities.